REMARKS

At the time of the Office Action dated September 2, 2005, claims 1-10 were pending and rejected in this application.

Applicants acknowledge, with appreciation, Examiner Huynh's courtesy and professionalism in conducting a personal interview on September 20, 2005, during which the Declaration under 37 C.F.R. § 1.131 accompanying this response was discussed. It is Applicants' understanding that the supplemental Declaration would establish conception and reduction to practice during the time prior to October 18, 2001, until the constructive reduction of practice of the invention on January 3, 2002.

CLAIMS 1-2, 5-7, AND 10 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON UPTON ET AL., U.S. PATENT PUBLICATION NO. 2003/0105884 (HEREINAFTER UPTON), IN VIEW OF JEFFRIES ET AL., U.S. PATENT NO. 6,094,529 (HEREINAFTER JEFFRIES), AND FURTHER IN VIEW OF HOMER ET AL., "INSTANT HTML," COPYRIGHT 1997, PAGES 88-101 (HEREINAFTER HOMER)

On December 16, 2004, Applicants submitted a Declaration by Radhika Aggarwal, William H. Krebs, Elizabeth A. Schreiber, and David Styles, the sole inventors of the present invention to which this patent application applies, swearing behind Upton and establishing an invention date which precedes that of Upton. Accompanying the present Request for Reconsideration is a Declaration of Gerald R. Woods, and is being submitted to provide additional evidence of reasonable diligence from the period between November 8, 2001 (the date

on which the Declaration and Power of Attorney was executed by Applicants), and January 3, 2002 (the filing date of the present Patent Application).

Since the Upton reference is not prior art to the present claimed invention, the rejection of claims 1-2, 5-7, and 10 under 35 U.S.C. § 103 cannot stand. Accordingly, Applicants respectfully solicit withdrawal of the imposed rejection of claims 1-2, 5-7, and 10 under 35 U.S.C. § 103 for obviousness based upon Upton in view of Jeffries and Homer.

Applicants further note that the filing date of the present application is January 3, 2002, whereas the filing date of Upton is October 15, 2002. Thus, the Examiner cannot be relying upon the disclosure of Upton for the rejection, but instead, the Examiner must therefore being relying upon the disclosure in U.S. Provisional Application No. 60/347,919 (hereinafter the '919 provisional application), upon which Upton claims priority, since the filing date for the '919 provisional application of October 18, 2001, is prior to the filing date of the present application. However, as stated in M.P.E.P. § 2136.03(III), entitled "PRIORITY FROM PROVISIONAL APPLICATION UNDER 35 U.S.C. 119(e)":

> The 35 U.S.C. 102(e) critical reference date of a U.S. patent or U.S. application publications and certain international application publications entitled to the benefit of the filing date of a provisional application under 35 U.S.C. 119(e) is the filing date of the provisional application with certain exceptions if the provisional application(s) properly supports the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph. (emphasis added)

Upon reviewing the '919 provisional application, Applicants are unable to determine where the '919 provisional application supports the subject matter relied upon by the Examiner in making the rejection of claims 1-2, 5-7, and 10 under 35 U.S.C. § 103 for obviousness based upon Upton in view of Jeffries and Homer. Since the Examiner cannot rely upon Upton in

making the rejection, the Examiner must clearly designate the teachings in the '919 provisional application being relied upon the statement of the rejection. Otherwise, the Examiner's rejection under 35 U.S.C. § 103 fails to comply with 37 C.F.R. § 1.104(c).[1]

CLAIMS 3-4 AND 8-9 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON UPTON IN VIEW OF JEFFRIES AND HOMER AND FURTHER IN VIEW OF HARTMANN, U.S. PATENT NO. 6,615,226

Since the Upton reference is not prior art to the present claimed invention, the rejection of claims 3-4 and 8-9 under 35 U.S.C. § 103(a) cannot stand. Accordingly, Applicants respectfully solicit withdrawal of the imposed rejection of claims 3-4 and 8-9 under 35 U.S.C. § 103 for obviousness based upon Upton in view of Jeffries, Homer, and Hartmann

Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

[1] 37 C.F.R. § 1.104(c) provides:

> In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: December 2, 2005

Respectfully submitted,

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